

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Amherst Brewing Company, Inc.

Date application filed with the Town Clerk: August 22, 2008

Nature of request: A Special Permit to modify Special Permit ZBA FY2004-00033 to expand the restaurant into adjacent retail business space and modify hours of operation.

Address: 24 North Pleasant Street (Map 14A, Parcel 337).

Legal notice: Published on September 10 and September 17, 2008 in the Daily Hampshire Gazette and sent to abutters on September 10, 2008.

Board members: Jane Ashby, Eric Beal, Hilda Greenbaum

Submissions: The petitioner submitted a packet of information with the application including:

- A Management Plan dated August 14, 2008;
- A Code Review prepared by Kuhn Riddle Architects dated August 22, 2008;
- A set of architectural plans prepared by Kuhn Riddle Architects dated August 25, 2008, including perspective views, floor plans and elevations.
- A set of sign plans and elevations showing the awning approved by the Design Review Board.

Town staff submitted the following information:

- A memorandum dated September 18, 2008, regarding the application, zoning and dimensional requirements for the subject property;
- A copy of the previous Special Permits ZBA FY2004-00033, 2004-00006, 2002-00005, 99-0013, 97-0035.

Site Visit: September 23, 2008

The Board met with the applicant, John Korpita and the owner, Barry Roberts at the property and observed the following:

- The existing restaurant situated on North Pleasant Street;
- The new entrance area, formerly the entrance to Mystery Train Records;
- The interior of the former tenant and review of areas of new seating, retail area, kitchen and storage;
- The three means of egress in the front of the building and notation of one at the rear;
- The design and location of the proposed awning, entrance and signs;
- The area of existing interior dining and kitchen relative to area of expansion.

Public Hearing: September 25, 2008

The applicant and President of Amherst Brewing Company (ABC), John Korpita, spoke to the application at the hearing. Barry Roberts, owner of the building, and architect John Kuhn also were present to answer questions.

The applicant stated that the Amherst Brewing Company requests approval to expand the first floor of the restaurant into the space formerly occupied by Mystery Train Records, install a new awning extending over the new area with associated new signs and to change the hours of operation on Sundays to open at 9:00 A.M.

Mr. Korpita provided the following information to the Board:

- He met with the Design Review Board (DRB) on September 24, 2008 with revised plans. The DRB recommended approval of the revised plans. The Board received an email from Christine Brestrup, Staff person for the DRB, indicating that the DRB indicating their recommendations.
- He reviewed the proposed signs, awning plans, lighting and other exterior changes. He noted that the awning will be constructed of metal rather than the current fabric material to increase durability. In addition, there will be ceiling fans and lighting on the patio, as per the plans recommended by the DRB.
- He described that the area of expansion will include a new lounge area, additional dining space, storage and expanded kitchen areas. He noted that the equipment in the new kitchen area will be mainly food prep and refrigeration, and will not require any exhaust systems.
- He noted that they wish to open the restaurant at 9:00 A.M. on Sundays to allow for the serving of a brunch. Currently the restaurant opens at 11:00 A.M. on Sundays.

The Board inquired whether the means of egress were changing. The applicant noted that there will be one additional entrance in the front of the building, but no changes to the existing means of egress in the front of the building and one in the rear.

Ms. Greenbaum noted the documentation submitted by Kuhn Riddle Architects and inquired about the number of bathrooms, specifically the number of woman's bathrooms. Mr. Kuhn responded that the submitted plans show three woman's rooms where four are required. He said they meet the requirements because there is also a unisex, handicapped bathroom and a staff bathroom.

Mr. Kuhn noted that the total occupancy of the first floor is 213 people, based upon the number of bathrooms for patrons, and the calculation exceeds the requirements when the accessible bathroom and a staff bathroom are factored in.

Staff assistant Ms. Holstein asked whether the occupancy includes standing room patrons and those for live entertainment. Mr. Korpita stated that the total occupancy of the first floor includes 195 proposed seats and a maximum of 18 employees.

He added that they only have one band as entertainment and it is associated with sit-down meals and that the down stairs doesn't have a standing crowd any more since the second floor was added.

Ms. Greenbaum asked how the occupancy is monitored and if the staff receives Safe Serve alcohol training. The applicant noted that occupancy for the first floor is monitored at the main door and by other staff. He added that they send new employees to Safe Serve trainings, as needed.

Ms. Greenbaum asked Building Commissioner Weeks if the building and plans were satisfactory. Ms. Weeks responded that the area of expansion will require sprinklers. She also noted that there are new regulations which apply to the width of entrance doors for A2 uses such as this. She indicated that the main door must be wider than 36 inches. Mr. Kuhn indicated that he was not aware of the new requirement but stated that he would review and update the plans to conform to the requirement.

The Board asked the applicant whether they intend to have brunch hours on Saturday, as well as Sunday. Mr. Korpita indicated that they would consider it, but had no plans for it yet.

Ms. Greenbaum made a motion to close the evidentiary portion of the hearing. Mr. Beal seconded the motion and the vote was unanimous to close the evidentiary portion of the hearing.

Public Meeting:

Ms. Ashby asked the Board members if they had any concerns or objections to the proposed addition. There were none.

The Board spent the remainder of the time during the public meeting discussing conditions for granting the Special Permit.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings, required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood in which it is proposed and is compatible with existing uses and other uses in the district because it is located in the General Business Zoning District, is in close proximity to similar uses. Also, the expansion is within the same building and continues the same previously approved restaurant use.

10.382, 10.383 and 10.385 – The proposal will not constitute a nuisance due to air pollution, lights or visually offensive structures and accessories because the expansion is consistent with the uses of the downtown area and will not produce any new noise or odors. Additionally, all new structures are consistent with the architecture and design of the existing building.

10.384 - Adequate and appropriate facilities will be provided for the proper operation of the proposed because the restaurant is expanding its current use and facilities in accordance with the required Health Department and Building Codes and the increased capacity is consistent with the size of the expanded area.

10.386 - The proposal ensures that it is in conformance with the Parking requirements as the property is located in the Municipal Parking Zoning District where on site parking is not required. New signs have been reviewed by both the Design Review Board and the ZBA, and approved by the Board as submitted.

10.387 – The proposal provides convenient and safe movement within the site and in relation to adjacent property because the design provides for better pedestrian movement at the entrance of the building and within the building.

10.388 – The proposal ensures adequate space for the off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment or use because the property is located in the Municipal Parking Zoning District where on site parking is not required and the delivery of goods and materials is restricted as per the conditions herein.

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables, and other wastes resulting from the uses permitted or permissible on the site because the property is serviced by Town water and Sewer, adequate methods of trash disposal and storage are already in place and will not be affected by the expansion.

10.393 -The proposal provides protection of adjacent properties by minimizing the intrusion of lighting as all lighting shall be downcast and will not illuminate onto any street or abutting property.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it promotes the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

Public Meeting - Zoning Board Decision:

Mr. Beal made a motion to APPROVE the application with condition, Ms. Ashby seconded the motion.

For all the reasons stated above, the Board VOTED unanimously to grant a Special Permit to Amherst Brewing Company, to modify Special Permit ZBA FY2004-00033 to expand the restaurant into an adjacent retail space, modify the exterior signs, awning and lighting and to modify the hours of operation of the first floor, at 24 North Pleasant Street (Map 14A, Parcel 337).

JANE ASHBY

HILDA GREENBAUM

ERIC BEAL

FILED THIS _____ day of _____, 2008 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2008.
NOTICE OF DECISION mailed this _____ day of _____, 2008
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2008,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, which shall supersede all previous permits, to modify Special Permit ZBA FY2004-00033 to expand the restaurant into an adjacent retail space, modify the exterior signs, awning and lighting associated with the first floor and to modify the hours of operation of the first floor, at 24 North Pleasant Street (Map 14A, Parcel 337), with the following conditions:

1. This permit shall supersede all previous Special Permits for the property.

First floor:

2. The hours of operation of the first floor restaurant/brewpub shall be from 11 A.M. to 1:00 A.M, Monday through Friday and 9:00 A.M. to 1:00 A.M. on Saturday and Sunday.
3. The layout of the first floor area shall be in accordance with the drawing, prepared by Kuhn Riddle Architects dated August 25, 2008 and stamped approved by the Zoning Board of Appeals dated September 25, 2008. Exception shall be provided for changes for the width and function of the main entry doorway to meet new Massachusetts Building Code requirements for A2 buildings.
4. The exterior signs and awning associated with the first floor restaurant shall be in accordance with the plans stamped approved by the Zoning Board of Appeals dated September 25, 2008.
5. The total capacity of the first floor shall be 213 people consisting of 157 interior seats, 38 seats on the outside patio and a maximum of 18 employees in accordance with the Code Review prepared by Kuhn Riddle Architects dated August 22, 2008 and stamped approved by the Zoning Board of Appeals dated September 25, 2008 as part of the management plan.
6. The first floor shall be managed in accordance with the management plan dated August 14, 2008 and stamped approved by the Zoning Board of Appeals dated September 25, 2008.
7. There shall be no outdoor dining after November 1 or prior to April 1.

Second floor:

8. The layout of the second floor shall be in accordance with the drawing, prepared by Kuhn Riddle Architects dated July 20, 2003 and stamped approved by the Zoning Board of Appeals dated August 28, 2003 as per ZBA FY2004-00006.
9. The occupancy of the second floor shall be in accordance with the Area Calculations For Occupant Load sheet prepared by Kuhn Riddle Architects and stamped approved by the Zoning Board of Appeals dated April 8, 2004, as per ZBA FY2004-00006.
10. The exterior sign for the second floor area shall be in accordance to the plans stamped approved by the Zoning Board of Appeals dated January 15, 2004.

11. The second floor shall be staffed by a minimum of 3 employees when in operation. When the second floor is operating at peak capacity, with an occupancy of between 100 and 120 people, there shall be a minimum of 6 employees present, including the on-site manager.
12. Occupancy of the second floor shall not exceed 120 people, including employees.
13. The operation of the second floor shall be operated as an adjunct to the restaurant as described in the management plans dated July 21, 2003 and March 8, 2004.
14. The second floor function room, billiards area and lounge shall not be operated prior to 11 A.M or after 1 A.M. daily.
15. Food shall be available at all times when alcohol is available, as described in the Management Plan dated July 21, 2003.
16. There shall be no live music in the second floor function room, billiards room or lounge.

General:

17. There shall be a minimum of one on-site manager for both floors at all times.
18. The volume of all outdoor music shall be maintained at a level that does not impede normal conversation for patrons on the patio.
19. There shall be no disposable glasses, china or silverware used on the patio.
20. Deliveries to the site shall be made between 7 a.m. and 11 a.m.
21. Managers shall not permit employees of the brewpub to park in the Jones Library parking lot.
22. All new employees who serve alcohol, including the restaurant manager, shall be appropriately trained and certified in responsible methods of alcohol service (e.g. Bar Code or ServSafe).
23. All alcoholic beverages, except growlers, must be consumed on the premises.
24. There shall be no products or by-products of the brewpub stored outside the establishment.
25. No more than two (2) growlers may be sold to any single customer at any given time.
26. Growlers may not be consumed on the premises of the Amherst Brewing Company.
27. Recyclables, garbage and trash shall be disposed of as described on the supplement to the management plan dated February 11, 1997, and on file in this office.
28. Any changes to the signs, lighting or other exterior features associated with the first or second floors shall be submitted for review by the Design Review Board and shall be reviewed and approved by the Zoning Board of Appeals at a public meeting.
29. This permit shall expire upon change of ownership or management.

JANE ASHBY, Chair
Amherst Zoning Board of Appeals

DATE